

COUNTY OF YORK

MEMORANDUM

DATE: June 11, 2002 (BOS Mtg. 7/16/2002)

TO: York County Board of Supervisors

FROM: James E. Barnett, County Attorney

SUBJECT: Off-duty employment of deputy sheriffs

Attached is a proposed ordinance which, if adopted, would authorize York County deputy sheriffs to engage in off-duty employment which might occasionally require the deputy to exercise his law enforcement authority in the performance of his duties. Such might be the case if, for example, a private company wished to obtain the presence of law enforcement personnel to provide security for a special event, not merely to serve as private security officers, but to function as York County deputy sheriffs, uniformed and equipped accordingly.

Not surprisingly, law enforcement officers often seek to supplement their income by "moonlighting" in that manner. However, Code of Virginia § 15.2-1712 (copy attached) indicates that a deputy sheriff or other law enforcement officer can pursue such employment only if the locality that is the officer's main employer has adopted an ordinance permitting such off-duty activities. A York County deputy sheriff recently brought to the attention of County staff that York County has never adopted such an ordinance, even though my research indicates that other localities in Virginia have routinely done so. Indeed, the draft ordinance presented for your consideration is typical of similar ordinances in effect throughout the Commonwealth.

For your information, in 1986 the Virginia Attorney General opined that a locality does not incur additional liability by virtue of having adopted such an ordinance and permitting off-duty employment by deputy sheriffs.

Also for your information, the draft ordinance is necessary only to authorize deputy sheriffs to engage in off-duty part time employment in which they act as deputy sheriffs, exercising the law enforcement authority which accrues to that office. The York County personnel policies applicable to all employees already authorize employees to hold second jobs, with the consent of the employee's supervisor and provided that the second job does not conflict with County employment. Thus, a deputy sheriff who wished to work in his or her off-duty hours in a part time capacity which did not require the deputy to appear as, or act as, a deputy sheriff, may do so without the adoption of the proposed ordinance. However, given a recent increase in the number of requests made to the York County Sheriff for the employment of off-duty deputy sheriffs, Sheriff Diggs has asked that I forward to you his request that the draft ordinance be adopted.

Barnett/3340:swb

Attachments

? Va. Code § 15.2-1712

? Proposed Ordinance No. 02-11